

COMMISSIONERS APPROVAL

CHILCOTT *gc*

LUND

THOMPSON *at*

TAYLOR (Clerk & Recorder)

Members Present.....Commissioner Greg Chilcott,
Commissioner Betty Lund and Commissioner Alan Thompson

Date.....November 27, 2006

Minutes: Glenda Wiles

The Board met to discuss and decide on a request for judicial review on transitioning to five Commissioners due to the recent election results. Present at this meeting were numerous County officials, including the Clerk & Recorder, Nedra Taylor, and numerous citizens. Commissioner Chilcott stated the Commissioners have had discussions on the 3-5 member Board. He asked Nedra about the 60-day window for Commissioner filing. Nedra stated it has always been a 60-day window period and they have not been advised any differently from the Attorney General or Secretary of State's Office. Commissioner Chilcott stated he has been reviewing Title 7 in regard to the election of new officers. Nedra stated the Commissioners will need to go to the County Attorney for further advice. Commissioner Chilcott stated he has it on good authority that citizens are going to ask for a Judicial Review under 7-3-154 MCA. He further stated if it was not clear and evident to the citizens of Ravalli County (that the sitting Commissioners must run again for election); he doesn't want those who file for candidacy to be put in a bad situation. Nedra stated anyone who is picking up applications, and/or filing for a Commissioner District, are being apprised of the potential for a court ruling.

Commissioner Thompson asked if the Judicial Review would be for the sitting Commissioners. Commissioner Chilcott stated he thought that is correct. Commissioner Thompson stated at the last Commissioner meeting on Wednesday, Commissioner Lund wanted to wait until the Government Study Commission met, which was this morning. Commissioner Thompson asked Glenda Wiles, who is the Ex-Officio Member to the Local Government Study Commission (LGSC), what took place during the morning meeting. Glenda relayed the Study Commission discussed the issues that were brought forth in the Commissioner's meeting on Wednesday of last week and two of the Commission Members were not in favor of preparing a new transitional plan that would allow the three sitting Commissioners to remain and not run again. One Commission Member was willing to discuss possibly changing the transition plan, but when put to a vote it failed two – one. Discussion by the Study Commission also included whether they

had the authority to make those changes after an election and if they were even in existence at this point.

Commissioner Thompson indicated the Study Commission did a commendable job; however, he feels there are two Study Commission Members who do not want to admit anything went wrong (that some people feel they were not given all of the necessary information on the transition process). Commissioner Thompson also stated he is upset that two years ago he was elected to a 6-year term and now he is being told he has to run again. If so, he will file for District #3. He hopes that citizens will ask for a judicial review, not only for Ravalli County, but for other counties. He stated the laws are confusing and ambiguous, and a judicial review in Ravalli County could set a precedent for the State.

Commissioner Lund said Nedra should continue to tell any Commissioner candidates about the potential for a Judicial Review, and in the meantime she would like to ask this Board to ask for a Declaratory Judgment. Commissioner Chilcott said the Attorney General's opinion on the new plan/form or amendment does not show consistency. Commissioner Chilcott stated the legislators should clean this up making the law clearer. He stated he reviewed 7-3-160 MCA, and in his opinion a new plan shows the local governing board 'shall' order the primary and general election. While this code is clear, how are they to govern under the powers of the transition? Thus, they have an obligation to have these issues clarified.

Stuart Brandborg of Bitterrooters for Planning stated he attended all but one meeting of LGSC, and relayed this issue was discussed that all five would have to run again. It was clear and specific to him and others, particularly at the Lone Rock, Stevensville and Darby meetings. Also, in the Bitterrooters for Planning mailer, which was 9,000 brochures, they addressed this and made it clear that all five would be up for election. 5,400 brochures were specifically mailed to those people who signed the Zoning Initiative. 700-800 brochures were mailed to people who worked on the growth policy and the balance were hand-carried to other citizens. He stated he will bring in a brochure so the Commissioners can read the information. He stated the 8,000 people who voted for the interim zoning initiative and the Commission over-haul should be invited to this meeting so the Commissioners can obtain their sentiment which is favorable to the transitioning process. Stuart stated the LGSC had a limited amount of money and other groups like Bitterrooters for Planning also spent money getting this information to the public by mail advertising. So, despite inadequate financing by the Commissioners, information went out to the public. He stated any challenge of this transition by way of a judicial review should come from the Commissioners as candidates, not by the county tax payers. He stated he and other members of the Bitterrooters for Planning have concluded that adequate information was given to the people in order to vote appropriately.

Gene Williams of Hamilton stated there was a blizzard of information given to the voters. Some information could not be figured out by the voter. He attended the LGSC meeting this morning and got a 'better look at the commission members and what they were doing'. They did a good job at what they were tasked with, but he still feels it doesn't

make sense for the Commissioners to have to run for re-election again. So regardless of what the Commission did, it was not made clear that this was one of the results of going from three Commissioners to five. He felt the information was not adequate enough for the voters.

John Schneberger of Hamilton stated he heard the Study Commission ask for money in order to get the information out to the public and the Commissioners denied their request for adequate funding. He stated he also questions the statement made by the Commissioners that they were not aware they would be up for re-election, as he knew it. Commissioner Thompson stated he was not aware that he would have to run again, only if concurrent terms and possibly for non-partisan, would he be required to run again. He also stated there were some members of public who were not aware. And while some wanted five, they did not think the sitting Commissioners would have to run again. He stated the people overwhelmingly chose staggered terms and not concurrent terms. In regard to funding, people said they did not want to fund the Study Commission, but they wanted one. There were no mills dedicated so the Commissioners came up with \$15,000 in two year terms. Was it appropriate amount? He stated he supposes some could say it should have been better funded.

John responded stating during an election process it is always a question if the voters are always informed. He stated the Commissioners have a profound impact on the community, and in that regard, he asked why they did not have the information. Was there a serious break down in the communication to the Commissioners and if so, it was their place to obtain the information and get it to the voters. He also stated that sometimes no matter how much information the voter receives they do not read it.

Commissioner Chilcott stated they focused on the cost of having a five member Commission. And the only reference (requiring the sitting Commissioners to run again) was made in the Minority Report. But even the Minority Report does not say which recommendation would trigger the special election. Commissioner Thompson agreed with Commissioner Chilcott. Commissioner Thompson stated the local news papers are not 'bastions for conservatism' in this county and the Ravalli Republic even said they did not know it. Thus our concern is to see who knew and who did not know.

A member of the audience read from a September 4th issue of Ravalli Republic which addressed the amount of money it would take to fund five commissioners. She also read the paragraph which stated all five Commissioner Seats would be up for grabs at once (no matter which option was taken; if five were voted in).

Kathleen Driscoll stated Glenda brought this information up at numerous public meetings and also told the Commissioners numerous times. But instead of listening to her, you decided to focus on the cost. Kathleen stated Glenda was unbiased when she brought that information to you and she was also unbiased at the public meetings. Kathleen stated she taped the public meetings and when this issue came up she went back and listened to the tapes. She found that Glenda was great to explain this information at all times, and any judicial review will show they did their diligence. Kathleen also stated in her candidacy

for County Commissioner she explained whether she won or lost she would be running again. And most people understood that.

Bill LaCroix of Victor stated he knew exactly what he was voting for. Five new Commissioners and that all five (which includes the sitting three if they chose) would be running again. He stated while minority report does not spell it out, he feels it was self explanatory that the five commissioners would have to run again.

Commissioner Chilcott stated in their meeting last Wednesday there were many citizens who did not understand that. Bill stated this is the Commissioners job, and it was incumbent upon the Commissioners, as an electorate, to know this information. Bill asked Glenda if she knew they would need to run again. Glenda indicated she knew that information.

Jim Parker stated the LGSC wanted and needed more funding for their study commission. He asked how the Commissioners will pay for their judicial review. Commissioner Chilcott stated judicial review is by 10 or more voters. Therefore even in this meeting they still have 'what we are saying is not what we are meaning'. He stated that is exactly what happened when Glenda was telling us something and we were thinking someone else. Jim stated ten years ago the Commissioners funded the Study Commission with one mill. He felt \$60,000 would have been adequate for the process.

Lyle Pelon of Hamilton stated he understood by way of districts that the constituency changes and it would require a process for Commissioners to be re-elected. This was obvious to him. He stated he has been voting for 30 years, and the group who loses is usually the ones who are disgruntled which is what is happening here. He stated he's been a loser in elections before and many times various ballot languages are ambiguous etc. He stated the LGSC was voted for so they could study the form of government. The people voted them in like they voted for five commissioners rather than the current three and for four year terms instead of six. He stated this sounds like sour grapes to him. Lyle stated the Commissioners must be intelligent and although the wording might be difficult at first glance, it made sense to him and besides that is where each voter must be accountable and not place the responsibility for understanding a ballot issue on anyone else. He stated he was an informed voter. He stated our forefathers gave us a form of government that allowed the citizens to vote. He felt Ravalli County needs fresh blood, and he did not think it was fair for one person to defend herself for any possible conflict of interest. Commissioner Chilcott asked Lyle who the new constituency was. Lyle stated it would be new districts for constituents. Commissioner Chilcott noted that at large voting brings constituency from all of the citizens, not just from one district as the at-large voting simply requires a candidate to live in a district. Lyle stated candidates receive most of their support from those who know them best. He asked how many of the commissioners have worked in the private sector, and stated the Commissioners' performance review comes at election time, which is something that 'just happened'.

Bill Knox of Corvallis stated the Commissioners' constituency just voted in the two for one (interim zoning) which was something the Commissioners have been reluctant to do, and they also voted in new Commissioners.

Kathleen Driscoll stated ten years ago the people wanted 5 Commissioners and this recent vote was consistent with the voter's desire.

Gail Knox of Corvallis stated one of the things that were discussed during the Local Government Study Commission meetings was that many citizens felt the Commissioners could be part time, along with the hiring of an educated and experienced county manager. She stated that was a valid discussion, yet she never heard any thing about that. She stated five Commissioners may decide it is time to hire a county manager.

Carolyn Weisbecker stated there was a lot of discussion at all of the public meetings. In April the study commission sent out a survey with questions on how government structure should be accomplished. She stated they should see what was published after that month. The survey findings show clearly that people wanted staggered terms and five Commissioners, but the web site did not show any evidence of how the terms need to be done. She stated she supports a judicial review.

Commissioner Chilcott stated a declaratory judgment is done by the Commissioners. He stated he did have some sour grapes as he thought he needed to fulfill his election. He stated this is "citizen government and if they want five Commissioners that's great, but his concern is the way the law is written". Commissioner Chilcott also stated he would like to challenge the legislators and their poor language. He stated even the Attorney General's opinion says this is ambiguous and contradictory. A declaratory judgment would be made by a judge and force the legislators to do their job.

Stewart asked when the interim zoning proposal people can meet with the Board of County Commissioners for the zoning overview. Commissioner Thompson said a meeting is scheduled Wednesday night with the Planning Board. And the Commissioners have asked County Attorney George Corn what the next steps are.

Bill asked what happens with declaratory judgment. Commissioner Chilcott stated this request goes straight to the Judges. Bill asked what the purpose of a declaratory judgment is. Commissioner Chilcott stated it asks for a judgment on the Attorney General's opinion, so in stead of giving a stamp of approval to the opinion it self it would also get the stamp of approval from the Court as well. Bill asked if the county would go to court with the declaratory judgment. Commissioner Chilcott said they are not sure at this point.

In other business the Board met with Ron Hale in regard to the lease of agricultural property near the airport. It was agreed to change various subsections of the lease prior to it's' approval. Glenda will make those changes and place the issue back on the agenda for approval.

Commissioner Chilcott attended an evening meeting at a private residence for homeowners who live on Lupine Road.